

REMARKS

Prior to this Response, an Office Action was mailed March 3, 2005. In the Office Action, regarding the Claims, the Commissioner rejected claims 1 and 2 under 35 U.S.C. § 102(b). In Response on June 6, 2005, Applicant directed remarks and submitted amendments to claims 1 and 2 and added a claim 3. On August 12, 2005, the Commissioner directed that Applicant direct remarks regarding new Claim 3 to explain how it is patentable over the earlier applied reference. In this Response, Applicant, in caution, repeats the previous amendment and response, and further provides the remarks regarding Claim 3 requested by the Commissioner.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim, unless Applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

Claims 1-3 are now pending in the present application. Reconsideration is requested. In addition to the above amendments, the Applicant makes the following remarks regarding individual issues:

THE APPLICANT'S TIME TO RESPOND

The last Office Action was mailed on August 12, 2005. Applicant was given a one (1) month or thirty (30) days time period to response. In determining whether this document is timely filed, the Patent Office is asked to note the Applicant's Certificate of Mailing in conjunction with 37 C.F.R. § 1.8.

THE SECTION 102(B) ANTICIPATION REJECTION

The Examiner rejected Claims 1 and 2 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,595,341 to Robinson et al. (hereinafter Robinson). Invalidity by anticipation requires that the four corners of a single prior art document describe every element of the claimed invention, either expressly or inherently, such that a person of ordinary skill in the art could practice the invention without undue experimentation. Advanced Display Systems Inc. v. Kent State University, 54 USPQ2d 1673 (Fed. Cir. 2000). "The identical invention must be shown in as complete detail as is contained in the ...claim." Richardson v. Suzuki Motor Co., 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); MPEP 2131. Anticipation under 35 U.S.C. § 102(b) requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 221 USPQ 481 (Fed. Cir. 1984).

With respect to the Robinson rejection of Claims 1 and 2, Robinson discloses a mailbox assembly and associated methods. Included in the Robinson assembly are two discrete parts: One indicator flag mountable on a mailbox, and two a runner member with items auxiliary components. The "indicator flag is an independent component separate from main runner member and its auxiliary components." See Robinson, col. 3, Ins. 55-60 & col. 5, Ins. 46-48. Robinson secures the flag to the runner member "by wedging flag, particularly flag head, between pins located on main runner and secondary runners" and then fastening with a wire tie, twist tie, rubber band or other means

wrapped around the arrangement to maintain the position. See Robinson, col. 5, lns. 53-66. The Commissioner contends that this positioning and fastening with a tie constitute attachment of the flag to the runner member, so as to anticipate Applicant's invention. Applicant has an integrated unit flag with a two part stop tab and a bushing attached directly to the flag stem, without an intervening runner, and without the need for an additional tie. There is no positioning as the unit is an integrated whole. As such Robinson does not anticipate Applicant's claimed invention.

The rejection is respectfully traversed. Nevertheless, Applicant has amended Claims 1 and 2, and further added Claim 3. It is believed that the rejection has become moot by the present amendments to the claim in question. Specifically, Claims 1 and 2 have been amended to read:

1. A mailbox signal flag mounting apparatus, comprising:
 - a stem having a mounting aperture;
 - a detachable stop tab attached to said stem; and
 - a detachable bushing [attached] connected to said stem by two breakable plastic connectors.
2. A replacement mailbox signal flag, comprising:
 - a stem having a mounting aperture;
 - a detachable stop tab attached to said stem;
 - a detachable bushing [attached] connected to said stem by two breakable plastic connectors; and
 - a flag portion attached to the distal end of said stem in relation to the mounting aperture.

A new claim, Claim 3, is presented:

3. A replacement mailbox signal flag, comprising:

a stem having a mounting aperture portion and a flag portion;

a two part detachable stop tab, the first part breakably connected to said stem and the second part breakably connected to said first part; and

a detachable bushing breakably connected to said stem

Claim 3 is patentable over Robinson. Robinson discloses a mailbox assembly and associated methods. Included in the Robinson assembly are two discrete parts: One indicator flag mountable on a mailbox, and two a runner member with items auxiliary components. The "indicator flag is an independent component separate from main runner member and its auxiliary components." See Robinson, col. 3, Ins. 55-60 & col. 5, Ins. 46-48. Robinson secures the flag to the runner member "by wedging flag, particularly flag head, between pins located on main runner and secondary runners" and then fastening with a wire tie, twist tie, rubber band or other means wrapped around the arrangement to maintain the position. See Robinson, col. 5, Ins. 53-66. Applicant has an integrated unit flag with a two part stop tab and a bushing attached directly to the flag stem, without an intervening runner, and without the need for an additional tie. There is no positioning as the unit is an integrated whole. As such Claim 3 is patentable over Robinson.

While Applicant believes the cited art did not anticipate Claims 1-2, it is believed that the amendments make clear that Robinson does not anticipate. These amendments, including the amendment adding new Claim 3, are supported in the Specification at pages 6-8 & Figures 1-6.

Accordingly, the rejections to claims 1 and 2 should be withdrawn, and claims 1, 2, and 3 should be allowed.

CONCLUSION

For the foregoing reasons, reconsideration and allowance of Claims 1-3 of the application as amended is solicited. The Examiner is encouraged to telephone the undersigned at (360) 750-9931 if it appears that an interview would be helpful in advancing the case. The Applicant respectfully submits that the rejection of the pending claims must be withdrawn, and that this application is in condition for allowance. Such is earnestly requested.

Respectfully submitted,

KURT M. RYLANDER
USPTO Reg. No. 43,897

RYLANDER & ASSOCIATES PC
406 West 12th Street
Vancouver, Washington 98660
(360) 750-9931